2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

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Submitted by Luxembourg on behalf of the European Union, the acceding countries Bulgaria and Romania, the candidate countries Croatia and Turkey, the countries of the Stabilization and Association Process and potential candidates Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, and Serbia and Montenegro, as well as Norway, member of the European Economic Area

1. Given that the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) is the cornerstone of the global nuclear non-proliferation regime, the essential foundation for nuclear disarmament under Article VI of the NPT and an important element in the further development of nuclear energy applications for peaceful purposes, the European Union makes every effort to maintain the authority and integrity of the NPT. The NPT is an irreplaceable multilateral instrument to the maintenance and reinforcement of international peace, security and stability.

2. In this statement, the EU will address the issues of non-proliferation, safeguards, protection against nuclear terrorism, and other related issues such as export controls, illicit trafficking, the physical protection of nuclear installations and nuclear-weapon-free zones.

3. To strengthen the implementation of the NPT, in December 2003 our Heads of State and Government adopted the EU Strategy against the Proliferation of Weapons of Mass Destruction. The EU attaches great importance to achieving universality of the NPT and its universal application, in accordance with the Common Position adopted in November 2003 by the EU Council on the universalization and reinforcement of multilateral agreements in the field of non-proliferation of weapons of mass destruction and their means of delivery. Our conviction, integral to this Strategy, is that a multilateral approach to international security, including disarmament and non-proliferation, is the best way to maintain peace and stability. The EU reaffirms its support for the decisions and resolution adopted by the 1995 NPT Review and Extension Conference and for the final document of the 2000 NPT Review Conference and bearing in mind the current situation.

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Safeguards

4. The aim of international safeguards is to detect and therefore to deter the diversion of nuclear materials for use in nuclear weapons, and, particularly with the provisions of the Additional Protocol, to increase confidence in the absence of non-declared nuclear activities. As a result, safeguards are a technical tool in support of the political goal of sustaining an environment in which nuclear energy may be used for peaceful purposes, complying with Articles I, II and III of the Treaty.

5. In the past, some non-nuclear weapon States, which had a Comprehensive Safeguards Agreement in force with the International Atomic Energy Agency (IAEA) still managed to develop a clandestine nuclear weapons programme, which inspections under the Comprehensive Safeguards Agreements were not able to detect.

6. When the clandestine nuclear programme for military purposes in Iraq was discovered at the end of the 1991 Gulf War and it revealed the limits of the IAEA's activities in a country which only had a Comprehensive Safeguards Agreement, the international community took the initiative to draw up a new legally binding instrument to strengthen the safeguards system, which led to the adoption in 1997 of the model Additional Protocol.

7. Past experience has shown the limitations inherent in the Comprehensive Safeguards Agreements in force; such agreements do not provide the IAEA with the necessary means to detect undeclared nuclear activities and related material.

8. It is a fact that the IAEA can only give credible assurances of the absence of undeclared nuclear activities in a country if that country has an Additional Protocol in force.

9. The safeguards obligations for non-nuclear weapon States enshrined in Article III of the NPT have the aim of providing the international community with an assurance that non-nuclear weapon States Parties are not manufacturing nuclear weapons or other nuclear explosive devices.

10. Eight years after the adoption of the model Additional Protocol, and despite the agreement reached at the 2000 Review Conference that Additional Protocols should be implemented by all States Parties to the NPT, an Additional Protocol has not been brought into force by 106 States. This constitutes an important non-proliferation deficit.

11. This unsatisfactory situation risks leading States Parties to show reluctance to engage in increased peaceful nuclear cooperation for the benefit of economic and social development.

12. Given the agreement reached in 2000 on the need for all States Parties to bring an Additional Protocol into force, and stressing the fact that at the last three sessions of the Preparatory Committee, nearly all States have declared themselves to be in favour of Additional Protocols, the European Union considers that Comprehensive Safeguards Agreements together with Additional Protocols constitute the current IAEA verification standard. A recommendation to this effect by the current Review Conference would greatly increase the confidence necessary for enhanced international cooperation in the peaceful uses of nuclear energy, since such a

recommendation would give a decisive impetus to making the Additional Protocols universal.

13. Making the Additional Protocols universal would strengthen the international non-proliferation and disarmament regime and would contribute to the security of all States. The EU supports the recommendations in the report by the United Nations High-Level Panel on Threats, Challenges and Change, namely that the International Atomic Energy Agency (IAEA) Board of Governors should recognize IAEA Comprehensive Safeguards Agreements and their Additional Protocols as today's IAEA safeguards standards.

14. The European Union regrets that 43 States Parties which do not have Comprehensive Safeguards Agreements with the IAEA still have to fulfil their obligations under the NPT. The Agency is unable to give assurances for those States. Every country should fulfil its obligations and contribute to the reinforcement of the international non-proliferation regime. The EU therefore asks the IAEA to circulate a list of these countries at this Conference, indicating the date on which their Safeguards Agreement should have come into force, and urges those 43 States to conclude such agreements, including an Additional Protocol, without further delay.

15. Given its concern that the IAEA should in future have a strengthened and cost-effective safeguards system, the EU welcomes the adoption in July 2003 of a financial package for 2004 to 2007 which provides for an increase in the safeguards budget.

Compliance with non-proliferation obligations

16. Some non-nuclear weapon States have not complied with their non-proliferation obligations under the Treaty and under their Comprehensive Safeguards Agreements with the IAEA.

Democratic People's Republic of Korea

17. The EU strongly condemns the DPRK's announcement of 10 February that it has produced and now possesses nuclear weapons, and strongly urges the DPRK to completely dismantle any nuclear weapons programme in a prompt, transparent, verifiable and irreversible manner.

18. The European Union deplores the announcement by the Democratic People's Republic of Korea in January 2003 that it intended to withdraw from the NPT. We continue to urge North Korea to return to full compliance with it's international non-proliferation obligations under the Treaty and its Safeguards Agreement with the IAEA. Any clandestine nuclear weapons programme must be completely, verifiably and irreversibly dismantled. The EU states its firm resolve to contribute to the search for a peaceful and negotiated settlement to the North Korean nuclear issue; it hopes that dialogue on this subject in the framework of the Six Party Talks will resume without delay. The announcement by North Korea of its intention to withdraw from the Treaty was an unprecedented challenge, which led to debate on the implementation of Article X of the Treaty, echoed by the United Nations High-Level Panel and by the Director General of the IAEA. The EU believes that the Review Conference should look seriously at this question of withdrawal. It will make concrete proposals during the Conference.

Iran

19. The European Union is united in its determination not to allow Iran to acquire military nuclear capabilities, and to see the proliferation implications of its nuclear programme resolved. It fully supports the negotiations currently under way between France, the United Kingdom and Germany, with the full participation of the Secretary-General of the Council, High Representative for the CFSP, and of Iran, on the basis of the Paris Agreement of 15 November 2004. The European Union notes that Iran has signed the Additional Protocol and has made a commitment to engage in a relationship of full cooperation and transparency with the IAEA, particularly to resolve outstanding issues. The European Union also welcomes Iran's commitment to suspend all enrichment related and reprocessing activities under IAEA supervision. The European Union calls on Iran to comply with all its international commitments fully and in good faith, and to provide the international community with objective guarantees that its nuclear programme is for exclusively peaceful purposes, by ceasing to develop and operate fissile material production capabilities. It is for Iran to re-establish trust. The European Union calls on Iran to strictly respect the provisions of the Paris Agreement of 15 November 2004 and the relevant resolutions of the IAEA Board of Governors, in particular with regard to the suspension of all enrichment related and reprocessing activities, as foreseen by the Paris Agreement.

Libya

20. On 19 December 2003, Libya announced its decision to eliminate all material, equipment and programmes leading to the production of Weapons of Mass Destruction and ballistic delivery systems. All States warmly welcome the fact that Libya brought its nuclear programme to the attention of the IAEA and that it is cooperating with the Agency, and welcome Libya's ratification of the Comprehensive Test Ban Treaty and its signature and decision to implement an Additional Protocol with the IAEA. The dismantling of Libya's Weapons of Mass Destruction Programme is recognized by the international community as a very positive precedent.

21. The EU calls for nuclear cooperation to be suspended where the IAEA is not able to provide adequate assurances that a State's nuclear programme is designed exclusively for peaceful purposes, until such time as the Agency is able to provide such assurances. In this context, the role of the United Nations Security Council as final arbiter should be reinforced, so that it can take appropriate actions in the event of non-compliance with obligations under the NPT, in accordance with the Statute of the IAEA, including the application of safeguards.

Illicit trafficking

22. We note the conclusion of the Director General of the IAEA that the uranium enrichment programmes of Iran and Libya share common elements and that the basic technology is very similar and was largely obtained from the same foreign sources. This is a matter of serious concern. We therefore fully endorse his call for full cooperation from all States in identifying the supply routes and sources of the technology and related equipment and nuclear and non-nuclear materials.

23. The illicit trade in nuclear equipment and technology is a matter of serious concern for the European Union and indeed all States Parties to the NPT. The Union

attaches great importance to strong national and internationally coordinated export controls, which we see as a necessary complement to our non-proliferation obligations under the NPT. Recent revelations have demonstrated the need for us to reinforce our efforts to tackle illicit trafficking and procurement networks and to address the issue of involvement of non-State actors in the proliferation of WMD manufacturing technology. In this context, we welcome the efforts made to dismantle such networks in Pakistan, Malaysia, South Africa, the United Arab Emirates and other countries; such efforts must continue.

24. The uncovering of the procurement network established by Dr. Khan shows that the proliferation of sensitive technology is no longer the sole preserve of States, and that financial gain is a powerful incentive.

25. The European Union therefore welcomes the adoption on 28 April 2004 of the first Security Council resolution on the proliferation of weapons of mass destruction. resolution 1540 stresses the international community's determination urgently to confront a real threat, namely the fact that such arms or materials could fall into the hands of terrorists or other non-State actors. The resolution requires all States to adopt national legislation criminalizing attempts to obtain or traffic in weapons of mass destruction, and to establish controls to thwart such activities. resolution 1540 explicitly states that none of these obligations contradicts the rights or obligations of member States by virtue of the NPT.

Export controls

26. United Nations Security Council resolution 1540, which has a binding character for United Nations Member States, obliges them to establish, develop, review and maintain appropriate and effective national export, transhipment, transit and re-export controls. Appropriate laws and regulations are to be established to this end.

27. In view of the enhanced proliferation threat, the EU considers it necessary for exporting States, as well as for importing States, to assume their responsibilities and take measures to ensure that exports of nuclear materials, equipment and technologies and related dual-use items are subject to appropriate surveillance and control. Export controls ensure that transfers take place for peaceful purposes as required by the NPT, facilitating also cooperation and technological development. The EU will work towards strengthening the effectiveness of export controls, preventing any uncontrolled dissemination of sensitive technologies, in particular by non-State actors, and defining adequate consequences for situations of non-compliance. We will however pay great attention to compliance with the core principles of the Treaty and, in particular, to the development of and cooperation on peaceful uses of nuclear energy. The EU will act in a way that saves the vast majority of countries, which respect their commitments, from the consequences of non-compliance by the few which do not. We will avoid creating dividing lines among the international community. The EU will therefore focus on strengthening export control policies and practices, within the EU and beyond, in coordination with its partners.

28. Coordination of national export control policies contributes significantly to the non-proliferation objectives of the NPT. In this regard, the work of the Zangger Committee was highlighted and welcomed by previous Review Conferences. At previous Preparatory Committees, States Parties to the NPT were urged to base their

export control policies on the Committee's technical interpretations of the obligations under Article III.2 as published in IAEA document INFCIRC/209 as amended.

29. The Member States of the EU also play an active role in the Nuclear Suppliers Group (NSG). We consider that the work of this group makes an important contribution to the non-proliferation of nuclear weapons. The EU abides by the NSG's requirement that transfers of trigger list items only be made to States which have in place a Comprehensive Safeguards Agreement with the IAEA. The EU member States are also working towards making the Additional Protocol a condition of supply for nuclear exports.

30. Work is also under way in the NSG to amend its Guidelines, particularly on additional criteria concerning the supply of enrichment and reprocessing technology, and on an immediate suspension of the supply of nuclear materials, equipment and technology to those in breach of their safeguards obligations.

31. We believe it would be most appropriate for this Review Conference to welcome and recognize the work of the NSG in pursuance of the NPT's non-proliferation goals and which meet the requirements of United Nations Security Council resolution 1540.

32. The EU proposes that all States Parties to the NPT follow the understandings of the Zangger Committee and the guidelines of the NSG when considering exports of nuclear materials, equipment and technologies. The EU supports every effort to ensure maximum transparency in all nuclear-related exports.

33. The EU calls on the States not party to the NPT to pledge a commitment to non-proliferation and disarmament, and once again calls on those States to become States Parties to the NPT as non-nuclear weapon States.

Safe and secure management of surplus nuclear weapons material

34. The Trilateral Initiative between the United States, Russia and the IAEA has not yet been implemented. The EU considers that a new momentum should be given to those negotiations.

35. The EU proposes that as soon as possible all nuclear-weapon States place fissile material no longer required for military purposes under IAEA or other international verification arrangements. France and the UK have already fulfilled this requirement.

Nuclear security

36. The EU continues to attribute great importance to the fight against terrorism, the continuing urgency and importance of which has been underlined by the tragic events of recent years. The EU strongly supports all measures that are aimed at preventing terrorists from acquiring nuclear, biological, chemical and radiological weapons and their means of delivery. We therefore supported and welcomed the inclusion of an anti-terrorist clause in each of the export control regimes. We also welcome efforts in other forums such as the G-8 to prevent terrorists or those that harbour them from acquiring or developing weapons of mass destruction, missiles and related equipment and technology. We call upon all States to take effective

measures to address the problem of diversion of and trafficking in WMD materials, and of the participation of non-State actors in proliferation of WMD.

37. The EU welcomes and appreciates the activities of the IAEA aimed at preventing nuclear terrorism. The IAEA had begun work on this area before the events of 11 September 2001 and has continued with its good work. We recall in this regard the March 2003 Conference on Security of Radioactive Sources held in Vienna by the IAEA, the United States and Russia, and the Conference to be held in Bordeaux in June 2005 on safety and security of radioactive sources. We welcome and support the recommendations made in Vienna.

38. In the nuclear security field, the EU stresses the importance of the recent Conference organized by the IAEA in London in March 2005.

39. The EU welcomes the adoption in 2003 of the Code of Conduct on the safety and the security of radioactive sources by the IAEA member States. The EU member States have informed the Director General in writing that they fully support the Code to make a political commitment to work towards following the guidance contained in the Code. The EU urges all countries to inform the IAEA Director General of their political commitments to support the Code. The EU supports also the internationally harmonized guidance for the import and export of radioactive sources in accordance with the Code of Conduct. The EU welcomes the wide support received by the world initiative to reduce the nuclear threat. The EU underlines the adoption of the European directive 2003/122 of 22 December 2003 on the control of highly radioactive sealed sources and orphan sources.

40. Also, effective physical protection of nuclear material, both civil and military, is of paramount importance. In the civil area, we welcome the fact that the number of States Parties to the Convention on the Physical Protection of Nuclear Material stands at 111. We call upon States that have not yet done so to accede to the Convention. The EU welcomes the well-defined draft amendment of the Convention worked out by a Technical and Legal Drafting Group, convened by the Director General of the IAEA, with the aim of extending the scope of the Convention to the physical protection of nuclear installations, and domestic use, storage and transport of nuclear material. The EU supports the initiative launched by Austria and by a number of other States Parties to the Convention to invite the Director General of the IAEA to convene a Diplomatic Conference in accordance with Article 20 of the Convention with a view to adopting the draft amendment to it. The Director General of the IAEA has just convened a Diplomatic Conference from 4 to 8 July 2005, to examine and adopt this draft amendment to the Convention. The EU urges all Parties to the Convention on the Physical Protection of Nuclear Material to participate in the Diplomatic Conference from 4 to 8 July so that the quorum of two thirds of the 111 Parties is achieved, to enable amendments to be adopted. The EU calls on all States which are members of the IAEA and have not yet signed and ratified the CPPNM Convention to do so in its amended version.

41. The EU has been supporting the Proliferation Security Initiative (PSI) since its launch in May 2003, in order to drive the initiative forward. The PSI has established itself as an important instrument providing an effective response to some of the major security challenges of the 21st century. It has succeeded in raising worldwide awareness of the threat posed by trafficking in WMD, their delivery systems and related materials, and in establishing the international cooperation that is required to stop WMD-related distribution and proliferation networks.

42. The EU welcomes the United Nations General Assembly's unanimous adoption of the Convention for the Suppression of Acts of Nuclear Terrorism. It hopes that all States will sign and ratify the Convention as soon as possible.

43. The responsibility for the security and safety of nuclear materials and high-level radioactive sources lies with the State. The EU encourages all States which have nuclear facilities and high-level radioactive sources on their territory to take all protection measures commensurate with the security risks.

44. The IAEA also plays a vital role in this area, particularly through its Nuclear Security Fund, which can make a major contribution to fighting the global threat of terrorism. We welcome the donations which have been made, whether financial or in kind, and we urge all Member States to provide support for the Agency's programme of activities, thereby ensuring its long-term viability.

45. The EU remains committed to implementation of the resolution on the Middle East adopted by the 1995 NPT Review and Extension Conference. We call upon all States in the region that have not yet done so to accede to the biological and chemical weapons Conventions and to the NPT. The EU calls upon the States of the region to undertake to establish a zone free from weapons of mass destruction and the means for their delivery as referred to in United Nations Security Council resolution 687 with an effective verification system. In view of recent revelations it is essential that, in pursuing this goal, the States of the region strictly abide by the commitments they have entered into. We believe that the conclusion by all States in the region of Comprehensive Safeguards Agreements with the IAEA and Additional Protocols should be a priority for the international community as a whole and would represent a crucial contribution to an overall improvement in security and confidence in the Middle East.

The EU's bilateral non-proliferation cooperation

46. In accordance with the EU Strategy against Proliferation of Weapons of Mass Destruction, adopted by our Heads of State or Government in December 2003, the EU has taken a series of measures to foster cooperation on non-proliferation, including:

- helping third countries to implement effective export controls, and cooperating with them to that end, in accordance with United Nations Security Council resolution 1540;
- helping third countries to reinforce nuclear security;
- contributing to global disarmament and the elimination of WMD;
- helping to improve the nuclear materials accountancy and export control systems of the States concerned;
- organizing workshops and seminars on non-proliferation, universalization and multilateralism.

Nuclear-Weapon-Free Zones

47. The European Union is aware of the importance of Nuclear-Weapon-Free Zones, established on the basis of arrangements freely arrived at among the States of the region concerned. They consolidate international and regional peace and

security. We welcome and support that Nuclear-Weapon States have signed and ratified the relevant protocols on Nuclear-Weapon-Free Zones, following completion of the necessary consultations.

48. The EU would like to see the conclusion of the Protocol to the Treaty of Bangkok which establishes the South East Asia NWFZ. The EU hopes that the outstanding issues can be addressed and resolved quickly.

49. The EU also supports the progress made by the Central Asian States to create a Nuclear-Weapon-Free Zone in their region. The EU hopes that outstanding questions can be resolved, in keeping with the principles and guidelines in the 30 April 1999 report from the United Nations Disarmament Commission.

50. The EU appeals to the States Parties to the Treaty of Pelindaba which have yet to ratify the Treaty in order to bring it into force, to do so without delay.

51. In order to help reach a consensus at our Review Conference, the Council of the European Union has adopted a Common Position on the 2005 NPT Review Conference. The EU Council identified a number of issues which we consider fundamental, covering the NPT's three pillars non-proliferation, disarmament and use of nuclear energy for peaceful purposes. Where these issues concern non-proliferation, they have been included in the written version of my declaration, but I shall not list them orally:

- recognizing that serious nuclear proliferation events have occurred since the end of the 2000 Review Conference;
- stressing the need to strengthen the role of the United Nations Security Council, as final arbiter, in order that it can take appropriate action in the event of non-compliance with NPT obligations, in keeping with the Statute of the International Atomic Energy Agency (IAEA), including the application of safeguards;
- drawing attention to the potential implications for international peace and security of withdrawal from the NPT. Urging the adoption of measures to discourage withdrawal from the said Treaty;
- calling for nuclear cooperation to be suspended where the IAEA is not able to provide adequate assurances that a State's nuclear programme is designed exclusively for peaceful purposes, until such time as the Agency is able to provide such assurances;
- calling on all States in the region to make the Middle East into an effectively verifiable zone free of nuclear weapons and other weapons of mass destruction and their delivery systems, in keeping with the resolution on the Middle East adopted at the 1995 Review and Extension Conference;
- since security in Europe is linked to security in the Mediterranean, giving top priority to implementation of the nuclear non-proliferation regime in that region;
- acknowledging the importance of nuclear-weapon-free zones for peace and security, on the basis of arrangements freely entered into between the States of the region concerned;
- stressing the need to do everything possible to prevent the risk of nuclear terrorism, linked to possible terrorist access to nuclear weapons or materials that could be used in the manufacture of radiological dispersal devices and, in

this context, stressing the need for compliance with obligations under Security Council resolution 1540 (2004). Calling for tighter security for high-activity radioactive sources. Supporting G-8 and IAEA action in this regard;

- recognizing that, in the light of the increased threat of nuclear proliferation and terrorism, the Proliferation Security Initiative, the Global Threat Reduction Initiative and the G-8 Global Partnership Initiative should be approved;
- calling for universal accession to the Comprehensive Safeguards Agreements and Additional Protocols;
- recognizing that Comprehensive Safeguards Agreements and Additional Protocols have a deterrent effect on nuclear proliferation and form today's verification standard, and continuing to work for increased detectability of any violations of Treaty obligations;
- working for recognition by the IAEA Board of Governors that the conclusion of a Comprehensive Safeguards Agreement and an Additional Protocol is today's verification standard;
- highlighting the IAEA's unique role in verifying States' compliance with their nuclear non-proliferation commitments and helping them, on request, to tighten up the security of nuclear materials and installations, and calling on States to support the Agency;
- recognizing the importance of appropriate effective export controls, in compliance with Security Council resolution 1540 (2004) and in accordance with Article III.2 of the NPT;
- implementing, at national level, effective export, transit, transshipment and re-export controls, including appropriate laws and regulations for that purpose;
- enacting effective criminal sanctions to deter illegal export, transit, brokering, trafficking and related financing, in compliance with United Nations Security Council resolution 1540 (2004);
- urging the Zangger Committee and the Nuclear Suppliers Group to share their experience on export controls, so that all States can draw on the arrangements of the Zangger Committee and the Nuclear Suppliers Group (NSG) guidelines;
- pointing up the need to strengthen the (NSG) Guidelines at an early date, to adapt them to new non-proliferation challenges;
- calling on the States Parties to the Convention on the Physical Protection of Nuclear Material to work for rapid conclusion of an amended Convention.

Conclusion

52. The EU and its member States will cooperate constructively with all States Parties at this Review Conference with the aim of making progress in nuclear non-proliferation, in keeping with the NPT and in the light of the outcome of previous Review Conferences and recent developments, as well as discussions in the Preparatory Committee for this present Conference.